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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/817,546

04/02/2004

Euan Skinner Macleod

0978-0024

2538

26568

7590

01/21/2009

COOK ALEX LTD

SUITE 2850

200 WEST ADAMS STREET

CHICAGO, IL 60606

EXAMINER

REDDING, DAVID A

ART UNIT

PAPER NUMBER

3723

MAIL DATE

DELIVERY MODE

01/21/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/817,546	Applicant(s) MACLEOD ET AL.	
	Examiner /David A. Redding/	Art Unit 3723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-6,13,14 and 16-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14 and 16-21 is/are allowed.
- 6) ☒ Claim(s) 1,3-6,13,22-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The amendment filed 12/23/08 has been entered. The indication of allowability of claims 1,3-6,13,22-28 is withdrawn in view of the new grounds of rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,3-6,13,22-28, are rejected under 35 U.S.C. 102(b) as being anticipated by USP 1,440,033 (Stevens et al.).

Stevens et al. disclose a rigid container 10 having an outlet (not numbered) at the bottom of the container 10, the opening being closed by pivoting flaps 26 (closure), the flaps 26 opened and closed via lever 30 (actuator). In use the lever 30 (figure 1 dotted lines) is positioned towards the bottom of the container 10 and the flaps 26 biased to close the opening of the container 10. In order to empty the contents of the container 10 the lever 30 is pulled down to a second position in which the flaps 26 pivot upwards opening the bottom of the container 10. The lever 30 and flaps 26 are capable of partially opening the outlet of the container 10. The preamble of the claims, specifying “a dirt receptacle for a vacuum cleaner” is considered to be intended use and of no patentable weight.

Claims 1,3-6,13,22-28, are rejected under 35 U.S.C. 102(b) as being anticipated by USP 4,023,719 (Noyon).

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Noyon discloses a container 1 having an outlet (not numbered) which is equipped with a closure 3, the closure controlled by an actuator 15b which controls the position of the closure 3 to provide staged discharge of the contents of the container 1 by partially opening the outlet. See figure 2 which illustrates the position of the closure 3 as I-IV. Again, the preamble of the claims are considered to be intended use and of no patentable weight.

Allowable Subject Matter

Claims 14,16-21 are allowed.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The remaining USP references are related to the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to /David A. Redding/ whose telephone number is 571-272-1276. The examiner can normally be reached on Mon.-Fri. 6:00 - 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail can be reached on 571-272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/David A Redding/
Primary Examiner
Art Unit 3723

DAR